

2007 North Carolina Senate Bill No. 816, North Carolina 2007 General Assembly - 2007 Regular Session

VERSION: Introduced  
March 15, 2007

A BILL TO BE ENTITLED

AN ACT to increase the criminal penalty to be imposed for drug trafficking offenses by five years.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 90-95(h) reads as rewritten:

'(h) Notwithstanding any other provision of law, the following provisions apply except as otherwise provided in this Article.

(1) Any person who sells, manufactures, delivers, transports, or possesses in excess of 10 pounds (avoirdupois) of marijuana shall be guilty of a felony which felony shall be known as 'trafficking in marijuana' and if the quantity of such substance involved:

a. Is in excess of 10 pounds, but less than 50 pounds, such person shall be punished as a Class H felon and shall be sentenced to a minimum term of

~~25 months and a maximum term of 30 months~~ 85 months and a maximum of 90 months in the State's prison and shall be fined not less than five thousand dollars (\$5,000);

b. Is 50 pounds or more, but less than 2,000 pounds, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of

~~35 months and a maximum term of 42 months~~ 95 months and a maximum of 102 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

c. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of

~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

d. Is 10,000 pounds or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~175 months and a maximum term of 219 months~~ 235 months and a maximum of 279 months in the State's prison and shall be fined not less

than two hundred thousand dollars (\$200,000).

(2) Any person who sells, manufactures, delivers, transports, or possesses 1,000 tablets, capsules or other dosage units, or the equivalent quantity, or more of methaqualone, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in methaqualone' and if the quantity of such substance or mixture involved:

a. Is 1,000 or more dosage units, or equivalent quantity, but less than 5,000 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~35 months and a maximum term of 42 months~~ 95 months and a maximum of 102 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

b. Is 5,000 or more dosage units, or equivalent quantity, but less than 10,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

c. Is 10,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of

~~175 months and a maximum term of 219 months~~ 235 months and a maximum of 279 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).

(3) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of cocaine and any salt, isomer, salts of isomers, compound, derivative, or preparation thereof, or any coca leaves and any salt, isomer, salts of isomers, compound, derivative, or preparation of coca leaves, and any salt, isomer, salts of isomers, compound, derivative or preparation thereof which is chemically equivalent or identical with any of these substances (except decocainized coca leaves or any extraction of coca leaves which does not contain cocaine) or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as 'trafficking in cocaine' and if the quantity of such substance or mixture involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of

~~35 months and a maximum term of 42 months~~ 95 months and a maximum of 102 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of

~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);

c. Is 400 grams or more, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~175 months and a maximum term of 219 months~~ 235 months and a maximum of 279 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).

(3a) Repealed by Session Laws 1999-370, s. 1, effective December 1, 1999.

(3b) Any person who sells, manufactures, delivers, transports, or possesses 28 grams or more of methamphetamine or amphetamine shall be guilty of a felony which felony shall be known as 'trafficking in methamphetamine or amphetamine' and if the quantity of such substance or mixture involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of

~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

b. Is 200 grams or more, but less than 400 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of

~~90 months and a maximum term of 117 months~~ 150 months and a maximum of 177 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);

c. Is 400 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of ~~225 months and a maximum term of 279 months~~ 285 months and a maximum of 339 months in the State's prison and shall be fined at least two hundred fifty thousand dollars (\$250,000).

(4) Any person who sells, manufactures, delivers, transports, or possesses four grams or more of opium or opiate, or any salt, compound, derivative, or preparation of opium or opiate (except apomorphine, nalbuphine, analoxone and naltrexone and their respective salts), including heroin, or any mixture containing such substance, shall be guilty of a felony which felony shall be known as 'trafficking in opium or heroin' and if the quantity of such controlled substance or mixture involved:

a. Is four grams or more, but less than 14 grams, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of

~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144

months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

b. Is 14 grams or more, but less than 28 grams, such person shall be punished as a Class E felon and shall be sentenced to a minimum term of

~~90 months and a maximum term of 117 months~~ 150 months and a maximum of 177 months in the State's prison and shall be fined not less than one hundred thousand dollars (\$100,000);

c. Is 28 grams or more, such person shall be punished as a Class C felon and shall be sentenced to a minimum term of ~~225 months and a maximum term of 279 months~~ 285 months and a maximum of 339 months in the State's prison and shall be fined not less than five hundred thousand dollars (\$500,000).

(4a) Any person who sells, manufactures, delivers, transports, or possesses 100 tablets, capsules, or other dosage units, or the equivalent quantity, or more, of Lysergic Acid Diethylamide, or any mixture containing such substance, shall be guilty of a felony, which felony shall be known as 'trafficking in Lysergic Acid Diethylamide'. If the quantity of such substance or mixture involved:

a. Is 100 or more dosage units, or equivalent quantity, but less than 500 dosage units, or equivalent quantity, such person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~35 months and a maximum term of 42 months~~ 95 months and a maximum of 102 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

b. Is 500 or more dosage units, or equivalent quantity, but less than 1,000 dosage units, or equivalent quantity, such person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

c. Is 1,000 or more dosage units, or equivalent quantity, such person shall be punished as a Class D felon and shall be sentenced to a minimum term of

~~175 months and a maximum term of 219 months~~ 235 months and a maximum of 279 months in the State's prison and shall be fined not less than two hundred thousand dollars (\$200,000).

(4b) Any person who sells, manufactures, delivers, transports, or possesses 100 or more tablets, capsules, or other dosage units, or 28 grams or more of 3,4-methylenedioxyamphetamine (MDA), including its salts, isomers, and salts of isomers, or 3,4-methylenedioxymethamphetamine (MDMA), including its salts, isomers, and salts of isomers, or any mixture containing such substances, shall be guilty of a felony, which felony shall be known as 'trafficking in MDA/MDMA.' If the quantity of the substance or

mixture involved:

a. Is 100 or more tablets, capsules, or other dosage units, but less than 500 tablets, capsules, or other dosage units, or 28 grams or more, but less than 200 grams, the person shall be punished as a Class G felon and shall be sentenced to a minimum term of ~~35 months and a maximum term of 42 months~~ 95 months and a maximum of 102 months in the State's prison and shall be fined not less than twenty-five thousand dollars (\$25,000);

b. Is 500 or more tablets, capsules, or other dosage units, but less than 1,000 tablets, capsules, or other dosage units, or 200 grams or more, but less than 400 grams, the person shall be punished as a Class F felon and shall be sentenced to a minimum term of ~~70 months and a maximum term of 84 months~~ 130 months and a maximum of 144 months in the State's prison and shall be fined not less than fifty thousand dollars (\$50,000);

c. Is 1,000 or more tablets, capsules, or other dosage units, or 400 grams or more, the person shall be punished as a Class D felon and shall be sentenced to a minimum term of ~~175 months and a maximum term of 219 months~~ 235 months and a maximum of 279 months in the State's prison and shall be fined not less than two hundred fifty thousand dollars (\$250,000).

(5) Except as provided in this subdivision, a person being sentenced under this subsection may not receive a suspended sentence or be placed on probation. The sentencing judge may reduce the fine, or impose a prison term less than the applicable minimum prison term provided by this subsection, or suspend the prison term imposed and place a person on probation when such person has, to the best of his knowledge, provided substantial assistance in the identification, arrest, or conviction of any accomplices, accessories, co-conspirators, or principals if the sentencing judge enters in the record a finding that the person to be sentenced has rendered such substantial assistance.

(6) Sentences imposed pursuant to this subsection shall run consecutively with and shall commence at the expiration of any sentence being served by the person sentenced hereunder.

(i) The penalties provided in subsection (h) of this section shall also apply to any person who is convicted of conspiracy to commit any of the offenses described in subsection (h) of this section.'

SECTION 2. This act becomes effective December 1, 2007, and applies to offenses committed on or after that date.